

REMARKS

Applicant has studied the Final Office Action dated April 3, 2009. Claims 1 and 11 have been amended. Claims 1-15 are pending. Claims 1 and 11 are independent claims. No new matter has been added as the amendments have support in the specification as originally filed.

It is submitted that the application, as amended, is in condition for allowance. Reconsideration and reexamination are respectfully requested.

§ 103 Rejections

Claims 1-15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Knudson et al. ("Knudson" U.S. Pub. No. 2005/0273819) in view of Emura (U.S. Pat. No. 6,344,878). This rejection is respectfully traversed.

It is respectfully noted that the Federal Circuit has provided that an Examiner must establish a case of prima facie obviousness. Otherwise the rejection is incorrect and must be overturned. As the court recently stated in In re Rijkaert, 28 USPQ2d 1955, 1956 (Fed. Cir. 1993):

"In rejecting claims under 35 U.S.C. § 103, the examiner bears the initial burden of presenting a prima facie case of obviousness. Only if that burden is met, does the burden of coming forward with evidence or argument shift to the applicant. 'A prima facie case of obviousness is established when the teachings from the prior art itself would appear to have suggested the claimed subject matter to a person of ordinary skill in the art.' If the examiner fails to establish a prima facie case, the rejection is improper and will be overturned." (citations omitted.)

It is noted that independent claim 1 has amended with this paper to recite time correction data corresponding to a time difference between a first base time provided by the first channel and a second base time provided by the second channel and independent 11 has been amended with this paper to recite time differences between the base times provided by the channels. It is respectfully submitted that the cited combination of references fail to disclose these limitations.

It is noted that the Examiner, at page 2 of the Office Action with regard to independent claim 1, asserts that Emura discloses “correcting a scheduled recording time of at least the first broadcasting program or the second broadcasting program according to time correction data corresponding to a time difference between the first channel and the second channel” at C. 19, ll. 42-63. It is further noted that the Examiner makes no assertion that Knudson discloses this limitation. It is further noted that the Examiner, at page 4 of the Office Action with regard to independent claim 11, makes no specific assertions with regard to the limitations recited in independent claim 11 other than “rejected for the same subject matter as claims 1 and 2.”

As previously submitted in the previous response to Office Action submitted on January 6, 2009, Knudson discloses a conflict between two channels each having programs with a scheduled recording time that is exactly the same with no disclosure of any time difference between channels and, therefore, cannot be asserted as disclosing calculations related to a time difference between channels. Therefore, it is respectfully submitted that the Examiner must be relying solely on Emura to teach the recitation of “correcting a scheduled recording time of at least the first broadcasting program or the second broadcasting program according to time correction data corresponding to a time difference between the first channel and the second channel” in independent claim 1.

It is respectfully submitted that the disclosure at C. 19, ll. 42-63 of Emura is simply an alternative way of recording a first program that cannot be recorded due to a overlap with a second program to be recorded when a program prior to the first program cause a delay of the first program. See Fig. 11A of Emura. Therefore, it is further respectfully submitted that Emura cannot be asserted as disclosing time correction data corresponding to a time difference between a first base time provided by the first channel and a second base time provided by the second channel, as recited in independent claim 1. Moreover, it is respectfully submitted that Emura is silent about a base time provided by a channel and time correction data corresponding to a time difference between base times provided by the channels, as recited in independent claim 11.

It is respectfully asserted that independent claims 1 and 11 are allowable over the cited combination of references. It is further respectfully asserted that claims 2-10 and 12-15 also are allowable over the cited combination of references at least by virtue of their dependence from an allowable independent claim.

CONCLUSION


In view of the above remarks, Applicant submits that claims 1-15 of the present application are in condition for allowance. Reexamination and reconsideration of the application, as originally filed, are requested.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at the Los Angeles, California telephone number (213) 623-2221 to discuss the steps necessary for placing the application in condition for allowance.

LEE, HONG, DEGERMAN, KANG & SCHMADEKA

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